Supreme Court, U.S.
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OFFICE OF THE CLERK

No. 93 1527

In The

Supreme Court of the United States

October Term, 1993

HENRY LEON ROGERS,

Petitioner,

vs.

CITY OF INVERNESS, FLORIDA, and CHIEF MASSEY W. COOK,

Respondents.

Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether a municipal residency requirement is constitutional when there is a lack of evidence in the record as a whole to support a finding that the residency requirement at issue was rationally related to some legitimate government purpose, thus failing to meet the threshold previously established for validity of government restrictions on residency.

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Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

The order and memorandum opinion of the United States District Court, Middle District of Florida, dismissing petitioner's complaint is, to the best of petitioner's knowledge, not reported. It is included herein as Appendix C, 3a.

The decision of the United States Court of Appeals for the

Eleventh Circuit, affirming without opinion, is, to the best of petitioner's knowledge, not reported. It is included herein as Appendix B, 2a.

STATEMENT OF JURISDICTION

The judgment of the United States Court of Appeals for the Eleventh Circuit was entered on November 17, 1993. The order denying the petition for rehearing was entered on December 28, 1993. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATUTE INVOLVED

Section 4.09 of the Municipal Code for the City of Inverness, Florida, which provides:

> § 4.09 RESIDENCY REQUIREMENT.
>
> Employees are required to reside within Citrus County, east and south of State Road 491. Residency within the required boundary must be accomplished thirty (30) days after the employees' successful completion of his/her training. The City Council of the City of Inverness, may make an exception, in writing, to this regulation for an employee.

STATEMENT OF THE CASE

A. The Statute

This case focuses on a municipal ordinance requiring Inverness police officers to reside within Citrus County, Florida, east and south of a state road running through the center of the

county. The policy is not based upon any rational relationship to a legitimate government purpose and is inconsistently enforced.

B. The Facts

Henry Leon Rogers joined and became a member of the City of Inverness Police Department Reserve Unit in 1986. In November, 1989, Mr. Rogers became a full-time police officer with the City of Inverness Police Department.

The City of Inverness is located in Citrus County, Florida, and has a residency requirement which requires all employees to live east and south of State Road 491, which runs through the center of Citrus County. This residency requirement is contained in § 4.09 of the City's rules and regulations, and reads as follows:

> Employees are required to reside within Citrus County, east and south of state road 491. Residency within the required boundary must be accomplished thirty (30) days after the employee's successful completion of his/her training period. The City Council of the City of Inverness, may make an exception, in writing, to this regulation for an employee.

Appendix D, 8a.

When Mr. Rogers began his employment with the City of Inverness Police Department, the City Council of the City of Inverness voted to waive the residency requirement for Mr. Rogers because of his three years voluntary service in the police reserves and to allow Mr. Rogers additional time to attempt to move his family east of State Road 491. At the time the City Council waived the residency requirement for Mr. Rogers he lived, and continues to live, two miles west of State Road 491 in Citrus County.

On June 14, 1991, Mr. Rogers was given a letter from the Inverness Police Chief, Massey W. Cook, informing him that he must move to the east side of state road 491 within thirty-one days. On June 15, 1991, Mr. Rogers responded to Chief Cook's letter by written memorandum informing the Chief that it would be an extreme financial burden for him and his family to move to the east side of State Road 491.

On June 26, 1991, Chief Cook sent a memorandum to the City Manager requesting a waiver of the residency requirement for Mr. Rogers because of his faithful service to the Inverness Police Department. Chief Cook also recommended that the residency requirement be extended to the west boundaries of Citrus County to assist the police department and other city offices in recruitment and retention of valuable employees. Chief Cook also noted that none of the other cities within Citrus County had such a residency requirement, nor did some twenty other police departments within the area surveyed by the Chief.

Notwithstanding the Chief's recommendations, he was notified by the City Manager that Mr. Rogers would have to comply with the residency requirement within ninety days or it would be necessary to terminate his employment. Chief Cook then notified Mr. Rogers that he would have to comply with the residency requirement within the ninety days specified by the City Manager or that he would be terminated from the City of Inverness.

On September 27, 1991, Chief Cook notified Mr. Rogers that his employment would be terminated as of the end of the business day on September 30, 1991. On September 30, 1991, Mr. Rogers submitted his resignation under protest.

C. Prior Proceedings

On or about May 21, 1992, Mr. Rogers filed a five count

complaint against the City of Inverness and Chief Massey Cook in the United States District Court for the Middle District of Florida. Count I alleged deprivation of rights under 42 U.S.C. § 1983. Count II was for declaratory relief. Count III alleged breach of an implied employment agreement. Count IV alleged promissory estoppel and Count V alleged intentional infliction of emotional distress. The complaint challenged the constitutionality of the Inverness residency requirement contained in § 4.09 of their Municipal Code.

On or about July 6, 1992, the City of Inverness and Chief Massey Cook filed their motion to dismiss the complaint for, among other reasons, failure to state a cause of action.

After reviewing the motion for dismissal by the City of Inverness and Chief Cook and the response by Mr. Rogers, the United States District Court entered its order granting the motion to dismiss, without prejudice, and a final judgment was entered pursuant to said order on November 18, 1992. The order dismissed the complaint in its entirety based solely on the residency requirement issues raised in the complaint, and made no mention of other grounds for dismissal raised by the movants.

Mr. Rogers timely filed an appeal to the Eleventh Circuit Court of Appeals to review the dismissal of the complaint by the district court.

On November 17, 1993, the United States Court of Appeals for the Eleventh Circuit entered its order affirming, without opinion, the decision of the district court. Mr. Rogers timely filed a petition for rehearing. On December 28, 1993, the United States Court of Appeals for the Eleventh Circuit denied, without opinion, the petition for rehearing.

REASONS FOR GRANTING THE WRIT

The United States Court of Appeals for the Eleventh Circuit has sanctioned a decision by the United States District Court for the Middle District of Florida that has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the Supreme Court's power of supervision.

The district court's erroneous decision was based upon the general premise that residency requirements in employment cases are valid and constitutional. However, the residency requirements heretofore found to be valid and constitutional have met the test of rational relationships to some legitimate government purpose. In the instant case, the residency requirement of the City of Inverness has no rational relationship to any legitimate government purpose. It is not based on any practical experience, there are no facts which reasonably justify the particular policy in place at the City of Inverness, and the policy is not drawn on the basis of any criteria related to any reasonable objective of the policy.

The City of Inverness does not require the employee to be a part of the community they serve; does not serve to diminish absenteeism and tardiness; nor does it benefit the City economically from the local expenditure of employees salaries.

The policy in question does not require the employees to live within the boundaries of the City of Inverness. Rather, the policy requires employees to live on the east side and to the south of a highway that runs through the center of the county. Thus, employees could live on the east side and south of that certain highway and still live just as far away from the City of Inverness as an employee living just on the west side of the highway designated as the boundary, and the employee living on the east side, though living as far away as the employee on the west side, or further, would not violate the policy.

The district court, in its order dismissing the complaint, did not find, based on sufficient evidence in the record, that the policy in question did have a rational relationship to a legitimate government purpose. Rather, the district court's order simply states that the court could ". . . envision a number of rational reasons in the City's public policy to justify its residency requirement. . . ." Appendix C, 5a.

Petitioner is aware that residency requirements in employment cases have generally been held to be valid. However, it is the particular policy of the City of Inverness and the application of that policy to petitioner that is the subject of his challenge. The facts in petitioner's case are quite distinguishable from the cases that support the application of a residency requirement.

The cornerstone cases addressing residency requirements and establishing guidelines under which such requirements may survive a constitutional challenge in federal court are *Wright v. City of Jackson Mississippi,* 506 F.2d 900 (5th Cir. 1975)[1] and *Simien v. City of San Antonio,* 809 F.2d 255 (5th Cir. 1987), rehearing denied March 5, 1987. These two cases, and those that follow, stand for the proposition that a city's residency requirement must establish a rational relationship between the policy and some legitimate government purpose in order to pass a constitutional challenge.

Policies which require employees of a city to reside inside the city are rationally related to some legitimate government purpose if they are based upon the following justifications:

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1. Decisions of the Fifth Circuit prior to September 30, 1981, are binding upon the Eleventh Circuit Court of Appeals and upon the United States District Court for the Middle District of Florida. *Bonner v. City of Prichard,* 661 F.2d 1206, 1207 (11th Cir. 1981).

(1) The policy is implemented because the local government institute believes that those paid with local tax dollars should support the local tax base;

(2) The city employees should be part of the community they serve in order to understand and identify with its problems;

(3) There is a justifiable need for readily available and properly trained manpower to respond to the needs of the city; and

(4) The policy aids in the reduction of absenteeism and tardiness of the City employees.

Wright, supra at 903, and *Simien, supra* at 257.

The policy under attack by the petitioner in this case meets none of the above justifications for residency requirements because the policy does not require the employees to reside within the City of Inverness, and the boundary line for residency allows employees to live inside the boundary, but still live further from the City of Inverness than persons who may live just outside the boundary, which creates an inconsistency in the application of the policy to City employees. Further, the policy allows for the City of Inverness to grant a waiver of the requirement without establishing any criteria for the waiver or any standards for its application.

Further, the policy is not based upon a belief that those paid with tax dollars from the City of Inverness will be supporting the local tax base, because they do not reside in the City of Inverness. It does not support the proposition that the City employee should be a part of the community of Inverness in order to understand and identify with its problems, because it does not require them to reside within the community of Inverness. There is no justification

relating to readily available and properly trained manpower to respond to the needs of the City, because there is no requirement that they reside within the municipality. There is no justification for the policy as aiding in the reduction of absenteeism and tardiness of City employees because it does not require that employees reside within the City of Inverness.

Further, employees of the City could, and do, reside on the east side of Highway 491 and actually live farther away from the City of Inverness than an employee who lives on the west side of Highway 491, as is the case of the petitioner herein.

In the district court's order granting the defendant's motion to dismiss, the court says "[a]s the court can envision a number of rational reasons in the City's public policy to justify its residency requirements the motion to dismiss is due to be granted." Then, in a footnote, the court says:

> For example, the City could cite to any of the following reasons: that City employees should be part of the community they serve in order to understand and identify with its problems; that residency requirements serve to diminish absenteeism and tardiness among City workers; or that the City benefits economically from local expenditure of employee's salaries.

Appendix C, 5a.

While the district court may have envisioned these rational reasons, the facts are that these reasons do not exist in the instant case, and there was a total lack of evidence in the record suggesting that they did exist. The City of Inverness did not cite to those reasons for justifying its policy in the instant case because it could not. They do not exist in this case.

CONCLUSION

The residency requirement contained in the policy of the City of Inverness for its employees meets none of the criteria established by the courts to determine whether the policy is rationally related to a legitimate government purpose. The order of the district court so finding is in error.

Respectfully submitted,

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APPENDIX A — ORDER DENYING MOTION FOR REHEARING OF THE JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT FILED DECEMBER 28, 1993

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 92-3241

HENRY LEON ROGERS,

Plaintiff-Appellant,

versus

CITY OF INVERNESS, FLORIDA, a Municipal Corporation; MASSEY W. COOK

On Appeal from the United States District Court for the Middle District of Florida

ON PETITION(S) FOR REHEARING

BEFORE: FAY and ANDERSON, Circuit Judges and JOHNSON, Senior Circuit Judges.

PER CURIAM:

The petition(s) for rehearing filed by appellant is denied.

ENTERED FOR THE COURT:

s/ Peter Fay
United States Circuit Judge

APPENDIX B — JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT FILED NOVEMBER 17, 1988

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 92-3241
Non-Argument Calendar

D.C. Docket No. 92-85-CIV-OC-10

HENRY LEON ROGERS,

Plaintiff-Appellant,

versus

CITY OF IVERNESS, FLORIDA, a Municipal Corporation, MASSEY W. COOK,

Defendants-Appellees.

Appeal from the United States District Court for the Middle District of Florida

(November 17, 1993)

BEFORE FAY and ANDERSON, Circuit Judges, and JOHNSON, Senior Circuit Judge.

PERCURIAM:

AFFIRMED. See 11th Cir. R. 36-1.

APPENDIX C — MEMORANDUM OPINION AND ORDER OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA DATED NOVEMBER 18, 1992

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

CASE NO. 92-85 Civ-J-Oc

HENRY LEON ROGERS,

Plaintiff,

-vs-

CITY OF INVERNESS, FLORIDA, a municipal corporation, and CHIEF MASSEY W. COOK,

Defendants.

ORDER

Plaintiff brings this multiple count complaint against Defendants alleging violations of his constitutional and civil rights, along with several pendant state law claims. The case is before the Court on Defendants' motion (Doc. 13) to dismiss. Plaintiff has filed a timely response (Doc. 16).

Defendant City, located in Citrus County, has a personnel rule that requires all employees of the City to live east of State Road 491 that runs through the center of the County. Plaintiff joined the City of Inverness Police Department's volunteer reserve unit in 1986. In November of 1989, he became a full-time police officer with the City. Prior to offering Plaintiff the job, the City voted to waive the residency requirement for Plaintiff because of his devoted three

years of voluntary service to the Inverness Police Department upon the condition that he would comply with the residency requirement within a year. On June 14, 1991, Plaintiff was informed by his Chief of Police, Defendant Cook, that he would be terminated if he did not produce evidence of compliance with the residency requirement within 31 days. On September 27, 1991, Cook informed Plaintiff that due to his continued noncompliance, he would be terminated as of the end of the business day on September 30, 1991. Plaintiff submitted his resignation, which he stipulated was under protest, on September 30, 1991. Thereafter, Plaintiff filed this action against the City and Cook.

In their motion to dismiss, Defendants argue that Plaintiff's complaint fails to state a claim for which relief can be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In deciding such motions, the Court must assume the truth of all of the allegations of the pleading under attack and may not dismiss a claim unless it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief." *Conley v. Gibson,* 355 U.S. 41, 45-46, 78 S. Ct. 99, 101-02, 2 L.Ed.2d 80 (1957). *See also Luckey v. Harris,* 860 F.2d 1012, 1016 (11th Cir. 1988), *cert. denied,* 495 U.S. 957, 110 S. Ct. 2563, 109 L.Ed.2d 744 (1990); *Cook & Nichol, Inc. v. The Plimsoll Club,* 451 F.2d 505 (5th Cir. 1971).

Residency requirements in employment cases are clearly valid and constitutional and Plaintiff concedes as much in his response to Defendant's motion. In *Wright v. City of Jackson, Mississippi,* 506 F.2d 900, 903 (5th Cir. 1975),[1] the court held that

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1. Decisions by the Fifth Circuit prior to September 30, 1981 are binding upon the Eleventh Circuit Court of Appeals and on this Court. *Bonner v. City of Prichard,* 661 F.2d 1206, 1207 (11th Cir. 1981).

when municipal residency requirements are challenged on equal protection grounds the requirement need only be shown to have a rational relationship to a legitimate governmental purpose in order to pass constitutional muster. If "the distinctions drawn [in the statute] have some basis in practical experience,"[2] or if "any state of facts reasonably may be conceived to justify" them,[3] and they are not drawn "on the basis of criteria wholly unrelated to the objective of [the] statute,"[4] then the statute will withstand an equal protection challenge. As the Court can envision a number of rational reasons in the City's public policy to justify its residency requirement,[5] the motion to dismiss is due to be granted.

Accordingly, upon due consideration, Defendant's motion (Doc. 13) to dismiss for failure to state a claim is GRANTED and the Clerk is directed to act accordingly.

IT IS SO ORDERED.

DONE and ORDERED at Jacksonville, Florida, this 18th day of November, 1992.

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2. *South Carolina v. Katzenbach*, 383 U.S. 301, 331, 86 S. Ct. 803, 820, 15 L.Ed.2d 769 (1966).

3. *McGowan v. Maryland*, 366 U.S. 420, 426, 81 S.Ct. 1101, 1105, 6 L.Ed.2d 393 (1961).

4. *Reed v. Reed*, 404 U.S. 71, 76, 92 S.Ct. 251, 254, 30 L.Ed.2d 225 (1971).

5. For example, the City could cite to any of the following reasons: that city employees should be part of the community they serve in order to understand and identify with its problems; that residency requirements serve to diminish absenteeism and tardiness among city workers; or that the city benefits economically from local expenditure of employees' salaries.

Appendix C

s/ W. Durrell Hodgson
United States District Judge

Copies to counsel of record

Appendix C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

CASE NUMBER: 92-85-Civ-OC-10

HENRY LEON ROGERS,

V.

CITY OF INVERNESS, FLORIDA, a municipal corporation, and CHIEF MASSEY W. COOK,

JUDGMENT IN A CIVIL CASE

Pursuant to the Court's order, filed on November 18, 1992, IT IS ORDERED THAT:

This case is dismissed without prejudice.

November 18, 1992
Date

DAVID L. EDWARDS
Clerk

Copies to:
Counsel of Record

s/ Evelyn Stout
(By) Deputy Clerk

APPENDIX D — SECTION 4.09 OF THE CITY OF INVERNESS MUNICIPAL CODE

4.09 RESIDENCY REQUIREMENT. Employees are required to reside within Citrus County, east and south of State Road 491. Residency within the required boundary must be accomplished thirty (30) days after the employee's successful completion of his/her training period. The City Council of the City of Inverness, may make an exception, in writing, to this regulation for an employee.

Supreme Court, U.S.
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In The

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October Term, 1993

HENRY LEON ROGERS,

Petitioner,

v.

CITY OF INVERNESS, FLORIDA and
CHIEF MASSEY W. COOK,

Respondents.

**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit**

BRIEF IN OPPOSITION

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COUNTERSTATEMENT OF THE QUESTION PRESENTED FOR REVIEW

Whether a municipal residency requirement is constitutional when it is rationally related to some legitimate government purpose even if it establishes a geographic boundary larger than the municipality?

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Simien v. City of San Antonio, 809 F.2d 255 (5th Cir. 1987), *reh'g denied*, en banc, 814 F.2d 658 (5th Cir. 1987) 6

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CASES CITED: STATE

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RULE:

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APPENDIX

Respondents accept and adopt Petitioner's Appendix A,B,C & D

Appendix E - Map of Citrus County 1a

No. 93-1527

In The

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October Term, 1993

HENRY LEON ROGERS,

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CITY OF INVERNESS, FLORIDA and
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**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit**

BRIEF IN OPPOSITION

Respondents, the City of Inverness, Florida and Chief Massey W. Cook, respectfully request that this Court deny the petition for a writ of certiorari seeking review of a decision of the United States Court of Appeals for the Eleventh Circuit.

STATEMENT OF THE CASE

A. The Statute

Respondents accept the Statement of the Statute, except that respondents disagree as to the last sentence.

(Pet. for Cert. 3) Rather, it is clear the residency requirement is based on a rational relationship to a legitimate government purpose and it is consistently enforced.

B. The Facts

The two largest cities in Citrus County are Crystal River west of S.R. 491 and Inverness east of S.R. 491. (Resp. Appendix E, 1a)

At the time Rogers joined the Inverness Police Department there was a residency requirement that officers live east and south of S.R. 491. Rogers lived four miles west of S.R. 491 not two miles, as alleged in Petitioner's Statement of Facts. (Pet. for Cert. 3)

Rogers was aware of the residency requirement and requested a waiver with the promise to move into the required area as soon as he could find a suitable place. He was hired on the condition that he would comply and the City *temporarily* waived the requirement for one year as a convenience to give Rogers time to move within the residency requirement boundaries. However, Rogers did not move.

The City advised Rogers in June 1991 that he must comply with the residency requirement within 31 days. Again, he did not move. Claiming moving would be a hardship, Rogers requested another waiver. The request was denied but Rogers was given a 90-day extension to comply with the residency requirement. Still, Rogers did not move. Instead he resigned under protest and filed a five-count complaint based on the residency requirement.

C. Prior Proceedings

Respondents accept Petitioner's statement of prior proceedings.

REASON FOR DENYING THE WRIT

The United States Court of Appeal did not depart from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's power of supervision.

Almost 100 years ago this Court recognized that certiorari is a power "which will be sparingly exercised and only when the circumstances of the case satisfy [the court] that the importance of the question involved, the necessity of avoiding conflict . . . or some matter affecting the interests of this nation in its internal or external relations, demands such exercise." *Forsyth v. Hammond*, 166 U.S. 506, 514, 41 L. Ed. 1095, 17 S. Ct. 665 (1896).

Currently under Rule 10.1 of this Court, a Petition for Writ of Certiorari should be granted only where there are special and important reasons therefor. There are no special or important reasons in the case at bar. The decisions below were accurate and fair and in full accord with other cases.

The residency issue was resolved twice in favor of the respondents and now the petitioner asks this Court to make a third review. But this Court, too, has upheld residency requirements. *McCarthy v. Philadelphia Civil Serv. Comm'n*, 424 U.S. 645, 47 L. Ed. 2d 366, 96 S. Ct. 1154 (1976).

There is nothing about the residency requirement or its application to the petitioner to warrant review here. The posture of this case is simple: the City of Inverness had a valid residency requirement of which Rogers was aware when he was hired. He was given several opportunities to comply with the residency requirement but did not. Rather, he resigned under protest and sued the city. The law suit was based on the residency requirement and was dismissed after careful consideration and a well-reasoned opinion by the District Court of the Middle District of Florida. (Pet. Appendix C, 3a)

In the Eleventh Circuit, wherein this matter arose, the hallmark residency-requirement case is *Wright v. City of Jackson, Mississippi*, 506 F.2d 900 (5th Cir. 1975).[1] In *Wright*, it was recognized there are a number of rational interests in municipal public policy to justify a residency requirement. Moreover, a residency requirement need only bear a rational relationship to *one* legitimate government purpose to be constitutional under equal protection. *Wright v. City of Jackson, Mississippi*, 506 F.2d at 904.

The Middle District of Florida in the case at bar recognized there are a number of rational reasons in Inverness' public policy to justify its residency requirement. The trial court envisioned three as examples.[2]

---

[1] Decisions of the Fifth Circuit prior to September 30, 1981, are binding on the Eleventh Circuit Court of Appeals and upon the United States District Court for the Middle District of Florida. *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981).

[2] "For example, the City could cite to any of the following reasons: that city employees should be part of the community

The petitioner contends there are no valid reasons to support the requirement because the residency restriction does not limit residency to Inverness but rather limits residency to the eastern half of Citrus County wherein Inverness is located. However, because of the geography of the area the residency requirement as written is no different than a mileage limitation on residency. Mileage limitations consistently have been upheld as constitutional. *See, e.g., Burke v. Chief of Police*, 373 N.E.2d 949 (Mass. 1978), Statute providing police officers may reside within 10 miles of city limits was valid; *International Ass'n of Fire Fighters v. City of San Leandro*, 226 Cal. Rptr. 238 (1986), City requirement that its fire department personnel reside within 40 road miles from fire station was both reasonable and specific.

As can be seen in the map attached as Respondents' Appendix E, 1a, State Road 491 bisects Citrus County. Inverness sits squarely within the area bounded by State Road 491 on the north and west and the Withlacoochee River on the east and south. The Withlacoochee forms the natural boundary of north and east Citrus County. So, the river in conjunction with State Road 491 forms an easily identifiable geographic residency boundary surrounding the City of Inverness. The residency requirement therefore obviously is defined appropriately and requiring

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they serve in order to understand and identify with its problems; that residency requirements serve to diminish absenteeism and tardiness among city workers; or that the city benefits economically from local expenditure of employees' salaries." (Pet. Appendix C, 5a)

police officers to live within a geographic area surrounding Inverness is sound and rationally related to the purpose for which the government exists.

The only real question raised in the petition turns on the particular facts of this case alone and is of interest only to the parties to it. That is, the geography of Citrus County and location of Inverness within it creates facts pertaining to the residency requirement that are peculiar and not likely to recur and therefore do not justify review by this Court.

The petitioner's other arguments are specious. For example, the fact that petitioner lives within four miles of the boundary is of no import. In *Simien v. City of San Antonio*, 809 F.2d 255 (5th Cir. 1987), *reh'g denied*, en banc, 814 F.2d 658 (5th Cir. 1987), the plaintiff lived only two blocks from the boundary. However, since the San Antonio residency requirement under attack had a rational relationship to a legitimate government purpose the requirement was upheld.

As can be seen above, there is nothing special or important about this case to anyone other than the parties involved. The lower courts appropriately reviewed the matter and reached a fair result. The petitioner is not satisfied with the lower courts' adverse decisions but that does not rise to the level necessary to invoke the jurisdiction of this Court.

CONCLUSION

Petitioner has failed to demonstrate that a grant of certiorari is appropriate, and therefore the petition for a writ of certiorari should be denied.

Respectfully submitted,

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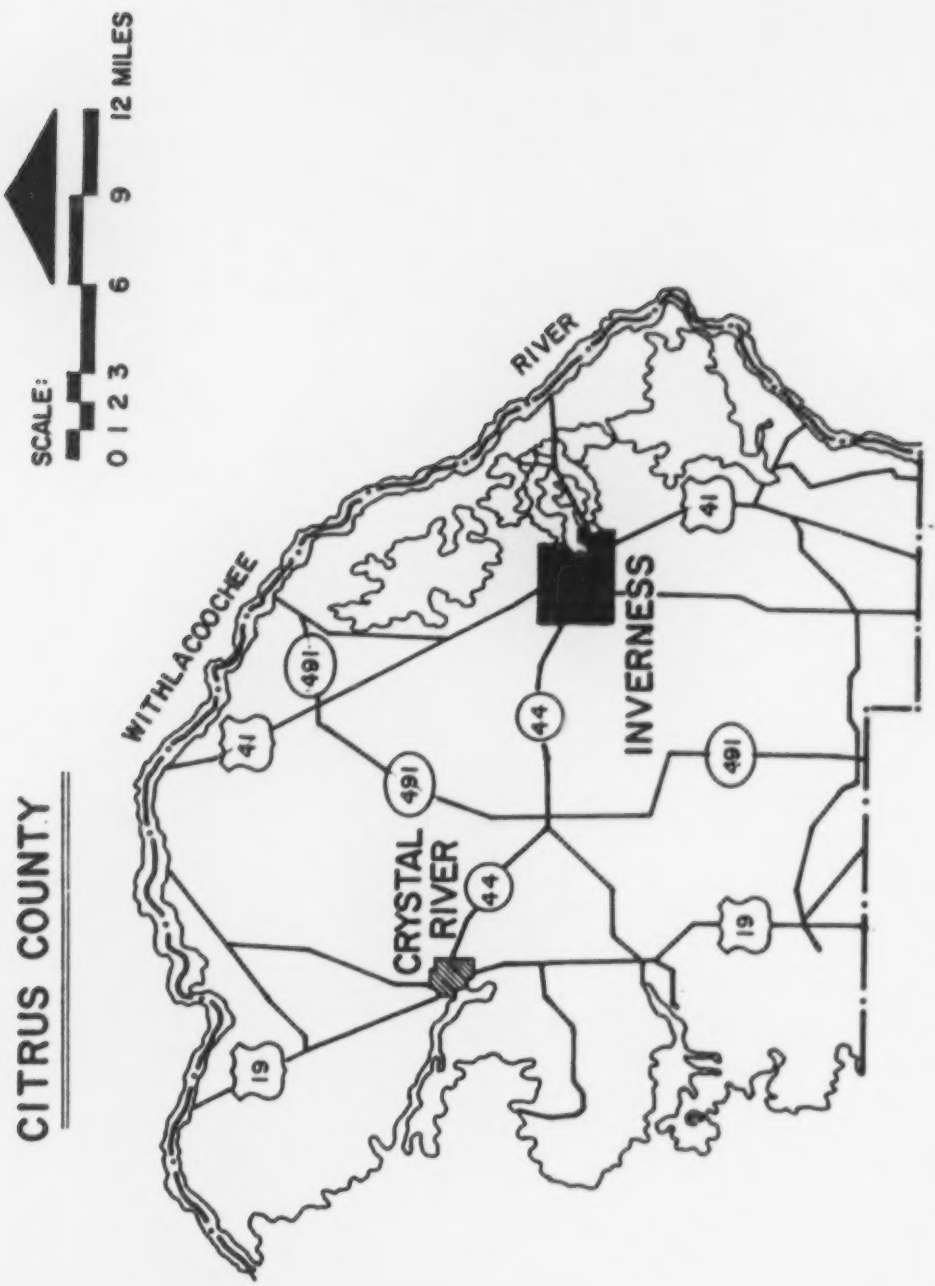
APPENDIX E


CITRUS COUNTY
SCALE:
0 1 2 3 6 9 12 MILES
WITHLACOOCHEE RIVER
INVERNESS
CRYSTAL RIVER
41
491
44
19